

**ASSEMBLY BILL**

**No. 82**

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**Introduced by Assembly Members Blakeslee and Solorio**  
**(Coauthors: Assembly Members Adams, Conway, Fletcher, Garrick,**  
**Gilmore, Hagman, Portantino, and Villines)**  
**(Coauthors: Senators Denham and Walters)**

September 9, 2009

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An act to amend Section 7074.2 of the Government Code, and to amend Section 26003 of, and to add Section 26011.7 to, the Public Resources Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 82, as introduced, Blakeslee. Economic development: projects.

(1) The Enterprise Zone Act provides for the designation of enterprise zones by the Department of Community Housing and Development, based on the department's approval of applications from a city, county, or city and county with a geographic area meeting certain criteria. Certain entities within a designated enterprise zone may receive regulatory, tax, and other incentives for private investment and employment. Existing law provides that no more than 42 enterprise zones be designated at any one time pursuant to the act. Upon the expiration or termination of a designation, existing law authorizes the department to designate another enterprise zone to maintain a total of 42 enterprise zones.

This bill would authorize the department to designate one special enterprise zone within the City of Fremont consisting of a geographical area encompassing a facility that manufactures automobiles and to designate, until January 1, 2010, an additional 10 special enterprise zones limited to one nonrenewable 15-year term. The bill would exclude

these enterprise zones from the calculation of the overall number of enterprise zones authorized under the act. The bill would also make legislative findings and declarations as to the necessity of a special statute.

(2) The California Alternative Energy and Advanced Transportation Financing Authority Act established the California Alternative Energy and Advanced Transportation Financing Authority. The authority is authorized to do all things necessary and convenient to carry out the purposes of the act. The authority is also required to establish a renewable energy program to provide financial assistance, as defined, to certain entities for projects to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. Existing law provides that the transfer of title of tangible personal property constituting a project under the act to the authority by a participating party or the lease or transfer of tangible personal property constituting a project under the act by the authority to a participating party pursuant to the act is not a “sale” or “purchase” for the purposes of the Sales and Use Tax Law.

This bill would include as a project, machinery, or equipment that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of an alternative source component. The bill would include as “financial assistance” for the purposes of the act purchases, sales, or lease arrangements that qualify for exclusion from the Sales and Use Tax Law. The bill would require the authority to consider specified criteria in approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion. The bill would require, when the sales and use tax exclusion for projects approved by the authority exceed \$100,000,000 annually, the authority to provide a 20-day notice to the Legislature for additional project approval.

(3) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7074.2 of the Government Code is  
2 amended to read:

3 7074.2. (a) Notwithstanding any other ~~provision of law~~, a city,  
4 county, or a city and county may designate a joint powers authority  
5 to administer an enterprise zone.

6 (b) No more than 42 enterprise zones may be designated at any  
7 one time pursuant to this chapter, including those deemed  
8 designated pursuant to subdivision (e) of Section 7073. Upon the  
9 expiration or termination of a designation, the department may  
10 designate another enterprise zone to maintain a total of 42  
11 enterprise zones.

12 (c) *Notwithstanding subdivision (c) of this section, the*  
13 *department may designate one special enterprise zone pursuant*  
14 *to this chapter within the City of Fremont that consists of a*  
15 *geographical area encompassing a facility that manufactures*  
16 *automobiles. The enterprise zone designated under this subdivision*  
17 *shall not be included in the calculation of the overall number of*  
18 *enterprise zones authorized under this chapter. The applicant and*  
19 *application shall comply with the provisions of this chapter and*  
20 *the department's regulations governing enterprise zones specified*  
21 *in Title 25 (commencing with Section 8430) of the California Code*  
22 *of Regulations, except that the application shall not be subject to*  
23 *a competitive application process.*

24 (d) *Notwithstanding subdivision (b), the department may, until*  
25 *January 1, 2010, designate an additional 10 special enterprise*  
26 *zones limited to one non-renewable 15-year term. Enterprise zones*  
27 *designated under this subdivision shall not be included in the*  
28 *calculation of the overall number of enterprise zones authorized*  
29 *under this chapter. If the department has completed its 2009*  
30 *competitive designation process as of the date the act amending*  
31 *this section goes into effect, it may use the results of that process*  
32 *to select the additional 10 special enterprise zones.*

33 ~~(e)~~  
34 (e) Notwithstanding any other provision of law, an expiring  
35 enterprise zone that applies for a new enterprise zone designation

1 pursuant to Section 7073 or 7073.1, and receives a conditional  
2 designation letter from the department, may offer, and a taxpayer  
3 doing business within the geographic boundaries of the new zone  
4 referenced in the conditional designation letter shall be eligible to  
5 receive, all enterprise zone benefits until the department makes a  
6 final designation or declines to redesignate the zone. The  
7 department shall make the effective date of the new zone the date  
8 of expiration of the previous designation and the term of the new  
9 zone shall begin on that date.

10 SEC. 2. Section 26003 of the Public Resources Code is  
11 amended to read:

12 26003. As used in this division, unless the context otherwise  
13 requires:

14 (a) “Authority” means the California Alternative Energy and  
15 Advanced Transportation Financing Authority established pursuant  
16 to Section 26004, and any board, commission, department, or  
17 officer succeeding to the functions of the authority, or to which  
18 the powers conferred upon the authority by this division shall be  
19 given.

20 (b) “Cost” as applied to a project or portion thereof financed  
21 under this division means all or part of the cost of construction  
22 and acquisition of all lands, structures, real or personal property  
23 or an interest therein, rights, rights-of-way, franchises, easements,  
24 and interests acquired or used for a project; the cost of demolishing  
25 or removing any buildings or structures on land so acquired,  
26 including the cost of acquiring any lands to which those buildings  
27 or structures may be moved; the cost of all machinery, equipment,  
28 and furnishings, financing charges, interest prior to, during, and  
29 for a period after, completion of construction as determined by the  
30 authority; the cost of the purchase or sale of energy derived from  
31 an alternative source pursuant to subdivision (g) of Section 26011;  
32 provisions for working capital; reserves for principal and interest  
33 and for extensions, enlargements, additions, replacements,  
34 renovations, and improvements; the cost of architectural,  
35 engineering, financial, accounting, auditing and legal services,  
36 plans, specifications, estimates, administrative expenses, and other  
37 expenses necessary or incident to determining the feasibility of  
38 constructing any project or incident to the construction, acquisition,  
39 or financing of a project.

(c) (1) “Alternative sources” means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels, and is intended primarily to offset part or all of the customer’s own electrical requirements.

(2) “Alternative sources” does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) “Advanced transportation technologies” means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state’s commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

- (1) Intelligent vehicle highway systems.
- (2) Advanced telecommunications for transportation.
- (3) Command, control, and communications for public transit vehicles and systems.
- (4) Electric vehicles and ultralow-emission vehicles.
- (5) High-speed rail and magnetic levitation passenger systems.
- (6) Fuel cells.

(e) “Financial assistance” includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the ~~board~~ authority.

(2) *Purchases, sales, or lease arrangements that qualify for exclusion from sales and use tax pursuant to Section 6010.8 of the Revenue and Taxation Code.*

~~(2)~~

(3) Any other type of assistance the authority determines is appropriate.

(f) “Participating party” means either of the following:

1 (1) A person or an entity or group of entities engaged in business  
2 or operations in the state, whether organized for profit or not for  
3 profit, that does either of the following:

4 (A) Applies for financial assistance from the authority for the  
5 purpose of implementing a project in a manner prescribed by the  
6 authority.

7 (B) Participates in the purchase or sale of energy derived from  
8 an alternative source pursuant to subdivision (g) of Section 26011.

9 (2) A public agency or nonprofit corporation that does either of  
10 the following:

11 (A) Applies for financial assistance from the authority for the  
12 purpose of implementing a project in a manner prescribed by the  
13 authority.

14 (B) Participates in the purchase or sale of energy derived from  
15 an alternative source pursuant to subdivision (g) of Section 26011.

16 (g) “Project” means a land, building, improvement to the land  
17 or building, rehabilitation, work, property, or structure, real or  
18 personal, stationary or mobile, including, but not limited to,  
19 machinery and equipment, whether or not in existence or under  
20 construction, that utilizes, or is designed to utilize, an alternative  
21 source, or that is utilized for the design, technology transfer,  
22 manufacture, production, assembly, distribution, or service of  
23 advanced transportation technologies, *alternative source*  
24 *components*, or an arrangement for the purchase, including  
25 prepayment, or sale of energy derived from an alternative source  
26 pursuant to subdivision (g) of Section 26011.

27 (h) “Public agency” means a federal or state agency, department,  
28 board, authority, state or community college, university, or  
29 commission, or a county, city and county, city, regional agency,  
30 public district, school district, or other political entity.

31 (i) (1) “Renewable energy” means a device or technology that  
32 conserves or produces heat, processes heat, space heating, water  
33 heating, steam, space cooling, refrigeration, mechanical energy,  
34 electricity, or energy in any form convertible to these uses, that  
35 does not expend or use conventional energy fuels, and that uses  
36 any of the following electrical generation technologies:

37 (A) Biomass.

38 (B) Solar thermal.

39 (C) Photovoltaic.

40 (D) Wind.

(E) Geothermal.

(2) For purposes of this subdivision, “conventional energy fuel” means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, “renewable energy” also means ultralow-emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

SEC. 3. Section 26011.7 is added to the Public Resources Code, to read:

26011.7. (a) To promote the creation of jobs and reduction of greenhouse gases, the authority may approve a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code.

(b) In approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code, the authority shall consider all of the following criteria:

(1) The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.

(2) The extent to which the project will create new, permanent jobs in California.

(3) The extent to which the project is consistent with local and state planning.

(4) The extent to which the project will produce quantifiable, verifiable, and sustainable reductions in the emissions of greenhouse gases as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

(5) Any other factors that the authority deems appropriate.

1 (c) Once exclusions granted pursuant to Section 6010.8 of the  
2 Revenue and Taxation Code for projects approved by the authority  
3 pursuant to this section exceed one hundred million dollars  
4 (\$100,000,000) annually, the authority shall provide a 20-day  
5 notice to the Legislature for additional approvals made pursuant  
6 to this section.

7 SEC. 4. Due to the unique circumstances of the City of  
8 Fremont, with respect to the need for sustained employment and  
9 business development in the area, the Legislature hereby finds and  
10 declares that a general statute cannot be made applicable within  
11 the meaning of Section 16 of Article IV of the California  
12 Constitution.

13 SEC. 5. This act addresses the fiscal emergency declared by  
14 the Governor by proclamation on December 19, 2008, pursuant  
15 to subdivision (f) of Section 10 of Article IV of the California  
16 Constitution.

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